

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

REVISION NO.4414/2022/TA/JODHPUR

Birmaram S/o Shri Ramchandra alias Chandraram Khod,
by caste Jat, R/o Village Miyasani, Tehsil & District Jodhpur.

... Revisioner.

Versus

- | | | |
|---------------|---|-----------------------|
| 1. Joriya | } | sons of Shri Mangaram |
| 2. Bhagiya | | |
| 3. Chandraram | | |
| 4. Dhannaram | | |

All are by caste Sargara, residents of Village Miyasani,
Tehsil & District Jodhpur.

...Non-revisioners.

Single Bench (Camp : Jodhpur)

Shri Sanuj Kulshrestha, Member

Present :

Shri Kanaram Godara : counsel for the revisioner.
Shri Dinesh Lal : counsel for non-revisioners.

Dated : 02.02.2026

ORDER

(I) GENESIS OF APPEAL :-

1. This Revision petition has been filed under section 230 of the Rajasthan Tenancy Act, 1955 (hereinafter to be referred "the Act") against the order dated 28.4.2022 passed by learned Additional Collector (First), Jodhpur.

(II) BRIEF FACTS :-

1. The revisioner/ appellant filed an appeal under Section 225 of the Rajasthan Tenancy Act, 1955 against the order of the Tehsildar, Jodhpur dated 02.3.2020, in Case No. 01/2019, passed under Section 183B of the Rajasthan Tenancy Act, 1955. It was mentioned that the revisioner's

grandfather, Chotharam, had a residential premises (Bada) in Khasra No. 249/289 in village Miyasani since 1962. After Chotharam's death, his son Ramchandra, the revisioner's father, was using and utilizing it. The land 'Gair Mumkin Rasta' bearing Khasra No. 288 is situated within the boundaries of village Miyasani and is in front of the revisioner's residential premises at khasra No.249. The non-revisioner/ respondents illegally encroached upon Khasra No. 288/3 area 0.09 bigha from the 'Gair Mumkin Rasta' land and got the same land registered in their name and started construction, even though the allotment of the road land is illegal. To evict/restrain the revisioner/appellant from using the disputed land of khasra No. 288 as 'Gair Mumkin Rasta', the non-revisioners/ respondents filed an application before the Tehsildar. The Tehsildar passed an ex-parte order dated 02.3.2020 without giving the revisioner an opportunity of hearing, aggrieved by which he filed an appeal before learned Additional Collector (First), Jodhpur who vide his order dated 28.4.2022 dismissed the appeal as infructuous. Aggrieved against the said Order dated 28.4.2022, the present revision petition has been filed before the Board by the revisioner.

(III) ARGUMENTS OF COUNSELS :-

1. Advocate Shri Kanaram Godara while buttressing his factual contentions of the revision petition argued that initially an application under section 183B was filed by non-revisioners/ applicants before Tehsildar for eviction of revisioner from land bearing khasra No. 288/3 admeasuring 0.09 bigha-'gair mumkin rasta'. This application before Tehsildar was time barred. He further contended that under the garb of eviction application, tenancy rights were imparted under section 183B of the Tenancy Act which is beyond the power of Tehsildar. He also argued that revisioner is occupant of land bearing khasra No. 249/4 and under the garb of having land khasra No. 288/3 registered in his name, non-revisioners tried to evict them from their khatedari land, as there is no demarcation (तरमीम) between these lands. Without even demarcation of land, simply upon the report of Patwari, Tehsildar has acted to pass the order of eviction without considering the fact of actual demarcation on location. Therefore, on these grounds, the revision may be allowed and the

order dated 28.4.2022 passed by learned Additional Collector (First), Jodhpur and that of Tehsildar, Jodhpur dated 02.3.2020 be set aside.

2. Per contra, advocate of non-revisioners factually reiterated the averments of their original application under section 183B Rajasthan Tenancy Act, 1955, which they had filed before the Tehsildar. He also submitted that revisioner was proved to be trespasser and allotment of land bearing khasra No. 288/3 to the non-revisioners has attained finality as revisioner has not challenged that allotment before any competent forum. It is on this ground, Additional Collector, Jodhpur has dismissed his appeal specifically mentioning that if revisioner/ appellant is aggrieved by the allotment of land khasra No. 288/3 admeasuring 0.09 bigha to the non-revisioners/ respondents, he may plead his case before the competent court. Therefore, this revision may be dismissed.

(IV) DISCUSSION OF THE COURT :-

1. After hearing both the parties through their counsels, this court deems it fit to elucidate upon the power of revision vested in this court by virtue of section 230 of the Rajasthan Tenancy Act. For the purpose of clarity, section 230 is reproduced as under :-

"230. Power of the Board to call for cases — The Board may call for the record of any case decided by any subordinate revenue court in which no appeal lies either to the Board or to a civil court under section 239 and if such court appears —

- (a) to have exercised jurisdiction not vested in it by law; or
- (b) to have failed. to exercise jurisdiction so vested; or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity.

Board may pass such orders in the case as thinks fit."

2. Clearly, there is no other ground apart from the grounds mentioned hereinabove on which revisional jurisdiction could be exercised i.e. having failed to exercise jurisdiction vested by law or having exercised the jurisdiction not vested by law or have acted in exercise of jurisdictional illegality/ material irregularity. In this regard, the judgment of Hon'ble Rajasthan High Court in Hanuman Prasad Khandelwal Vs. Hansraj [2015

Supreme (Raj.) 879] has clearly demarcated outer periphery of revisional jurisdiction, clarifying that its scope is limited to correcting jurisdictional errors, procedural irregularities/ illegalities that goes to the root of the matter. It also put forth an embargo qua reappreciation of evidence and facts and entertaining new grounds not taken before the courts below.

3. Apparent from the above discussion and legal position, the scope of revision is limited to the base litigation as to its jurisdictional competency/ non-competency or illegality/ material irregularity.

4. In the light of above legal position, the record of the case clearly shows that this series of litigation begins with filing of an application before Tehsildar, Jodhpur for eviction of revisioner from the registered tenant land of non-revisioners bearing khasra No. 288/3 admeasuring 0.09 bigha-'gair mumkin bada'. In support of their contention, they have produced the revenue record for Samvat 2059 to 2062 (Khata No. 49 new and 50 old) showing Joriya, Bhagiya, Chandram, Dhanaram sons of Mangaram, by caste Sargara as khatedar for khasra No. 288/3 admeasuring 0.09 bigha with the land type 'gair mumkin bada'. Even the report of revenue officer dated 15.11.2019 shows that this land is attached/ connected with main khasra No. 288 as abadi land and have the residential premises of other people as well. This report also clarifies that actual demarcation of land has not been done and without the actual demarcation of the entire khasra No. 288, factual possession of the location could not be ascertained.

5. In fact, the order of Tehsildar dated 02.3.2020 shows that the matter was registered on an application presented by non-revisioners before the Collector, Jodhpur specifically pleading about the land bearing khasra No. 288/3 admeasuring 0.09 bigha situated in village Miyasani for removal of illegal encroachment and eviction. Rightly, the same was registered under section 183B of the Rajasthan Tenancy Act; therefore, by virtue of Schedule-III of Rajasthan Tenancy Act at entry No. 68C, Tehsildar has power to decide upon such application by following the summary procedure. However, a limitation of 12 years was cautioned therein. From a bare perusal of the record and the application of non-revisioners, it is

clear that the application does not specifically mention about the date on which such encroachment was done. Nonetheless, this fact was not readily controverted by the revisioners as well, because in their revision petition and in the appeal, they have specifically mentioned that land bearing khasra No. 288/3 admeasuring 0.09 bigha was wrongly entered in the name of non-revisioners as the same being 'gair mumkin rasta' and they themselves have the opening of their residential premises on the said land, meaning thereby that they have directly/ indirectly presented a case where land khasra No. 288/3 admeasuring 0.09 bigha was wrongly entered in favour of non-revisioners and for which they have the right of user as 'gair mumkin rasta'. However, the revenue record documents relied upon by the Additional Collector, Jodhpur in his order clearly shows the existence of khasra No. 288/3 admeasuring 0.09 bigha as 'gair mumkin bada', in favour of the non-revisioners and original khasra No. 288 admeasuring 5.01 bigha as 'gair mumkin rasta'. This being the position, where there is nothing on record to show that the land bearing khasra No. 288/3 admeasuring 0.09 bigha has anything to do with the possession or entitlement of revisioner in the revenue records. He may have a right to way through the said khasra No. 288 for his residential premises but the same cannot be ascertained with precision, warranting actual-factual demarcation, as reported by the revenue officer in his report dated 15.11.2019. Therefore, this court do not find it a fit case warranting any interference in the orders of both the courts below on the court of jurisdictioner errors/ illegalities/ irregularities, qua revisional jurisdiction.

(V) ORDER :-

Consequently, the revision petition being devoid of merits as per law as well as on facts, deserves to be dismissed. Be it ordered accordingly.

Pronounced in open court.

(SANUJ KULSHRESTHA)
Member